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HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: **HON'BLE SHRI JAGDISH BHALLA, Ag.CJ. &**
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

M.A.(C) No. 467 of 2007

Appellant (Insurer)	:	National Insurance Company Ltd., Through – Branch Manager, Korba (C.G.) (Insurer of Truck Vehicle No. C.G. 12ZD00701)
		Versus
Respondents (No. 1 to 6 are Claimants)	1.	Mus. Mehrun Nisha, S/o Late Md. Shabaan, Aged about 34 years
	2.	Md. Aazad, S/o Late Md. Shabaan, Aged about 19 years
	3.	Md. Sajad, S/o Late Md. Shabaan, Aged about 19 years
	4.	Ku. Gousiya, D/o Late Md. Shabaan, Aged about 14 years
	5.	Gulam Gous, S/o Late Md. Shabaan, Aged about 12 years
	6.	Ku. Rajiya, D/o Late Md. Shabaan, Aged about 7 years Respondents 4 to 6 are minor through natural guardian mother Mehrun Nisha, Aged about 34 years, Wd/o Late Md. Shabaan. All are R/o Village Bankimongra, Tehsil – Katghora, Dist : Korba (C.G.), Presently residing – Juna Bilaspur, Bilaspur, Tehsil & Dist : Bilaspur – (C.G.)
Driver of Maruti Van No. C.F. 15ZD-0249	7.	Dharmendra Patel S/o Sita Ram Patel, Aged about 26 years, R/o Karehapara, Village & Post – Ratanpur, Dist : Bilaspur – (C.G.)
-- DELETED-- Owner of Maruti Van No. C.G. 15ZD-0249	8.	Ramnarayan Tiwari S/o K.P. Tiwari, R/o Sarguja, Kshetriya Gramin Bank, Branch – Premnagar, Dist : Sarguja (C.G.)
Driver of Truck No. C.G.12ZC-0701	9.	Sarkhu Khan S/o Bhikari Khan, Aged about 49 years, R/o Deharibarapattar, P.S. Dehri, Dist : Rohtas (Bihar) R/o Budwari Bazar, Korba.

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Owner of Truck No. C.G.12ZC-0701	10.	Saiffuddin Khan, S/o Likhakari Khan, Village & Post – Kusmunda, Dist : Korba – (C.G.)

Misc. Appeal under Section 173 of the Motor Vehicle Act, 1988

Present: Shri Raj Awasthi, counsel for the appellant.

ORAL ORDER
(Passed on 25th June, 2007)

The following oral order of the Court was passed by **Dilip Raosaheb Deshmukh, J.**

Heard.

Vide award dated 10.01.2007 passed by 6th Additional Motor Accidents Claims Tribunal, Bilaspur in Claim Case No. 07 of 2006, the Motor Accidents Claims Tribunal (hereinafter referred to as the "Tribunal") awarded compensation of Rs.5,52,000/- against the appellant-Insurer.

The only point urged by learned counsel for the appellant-Insurer in this appeal is that on the date of accident the offending vehicle i.e. Maruti Van No. C.G.15ZD-0249 was not insured by the appellant – Insurer. However, upon perusal of the record, the argument advanced by learned counsel for the appellant cannot be countenanced for the reason that neither the appellant-Insurer specifically denied the fact that the Maruti Van No. C.G. 15ZD-0249 was insured by it in its pleadings nor led any evidence to prove it.

In this view of the matter, learned Tribunal was wholly justified in recording the finding that in the absence of any denial or evidence in rebuttal, it could not be said that the offending vehicle was not insured by the appellant-Insurer.

No other ground was urged in this appeal.

In the result, the appeal being devoid of any merit, is dismissed at the stage of admission itself.

Sd/-
Ag. Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

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